



MINUTES

Judicial District and Judicial Resources Study Committee

October 7, 2003

MEMBERS PRESENT:

Senator Donald Redfern, Cochairperson
Senator Keith Kreiman
Sheriff Dennis Anderson
Megan M. Antenucci
Jackie Armstrong
Mike Bollard
Curt Campbell
Judge Stephen Clarke
Virginia Cobb
Deborah Dice
Tom Drew
Jay Eaton
Barbara Edmondson
Shirley Faircloth
Joe Holland

Representative Gene Maddox, Cochairperson
Representative Kurt Swaim
Julie Johnson
Carmen Loveland
John McClintock
Rhonda Millhollin
Judge John Nahra
Carolee Philpott
Judge David Remley
Elisabeth Reynoldson
Marty Ryan
Judge Annette Scieszinski
H. Richard Smith
Justice Marsha Ternus

MEETING IN BRIEF

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- I. Procedural Business.
- II. Introductions.
- III. Overview of Charge and Review of Enabling Legislation.
- IV. Fiscal Considerations.
- V. Judicial Branch.
- VI. 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting.
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I. Procedural Business.

Call to Order. Temporary Chairperson Senator Donald Redfern called the Judicial District and Judicial Resources Study Committee to order at 10:06 a.m., on Tuesday, October 7, 2003, in Room 22, State Capitol, Des Moines, Iowa.

Election of Chairpersons. Judge Stephen Clarke moved that the Committee elect Senator Redfern and Representative Maddox as Cochairpersons of the Committee. The motion was seconded by Jay Eaton. Ms. Armstrong nominated Mr. Drew as Chairperson. The Committee elected Senator Redfern and Representative Maddox Cochairpersons on a vote of 20-4.

Proposed Rules. Mr. Campbell moved that the Committee adopt the attached proposed rules. The motion was seconded and the rules were adopted by voice vote.

Adjournment. The meeting adjourned at 3:13 p.m.

II. Introductions.

Members of the Committee gave introductions and opening comments related to their goals for the Committee. Mr. Holland, an attorney and past president of the Iowa State Bar Association, stated that the Committee has the unique opportunity to allow for citizen input in any judicial redistricting or judicial allocation process. Ms. Reynoldson, also a representative of the Iowa State Bar Association, echoed Mr. Holland's comments. Ms. Dice, District Court Administrator for the Eighth Judicial District representing the District Court Administrators, emphasized the importance of keeping an open mind throughout the committee process. Judge Scieszinski, President-elect of the Iowa Judges Association and representing the Iowa Judges Association, stated her desire to maintain an open dialogue about the issues and also emphasized the importance of careful planning. Mr. Smith, an attorney from Des Moines representing the Iowa Supreme Court, echoed Judge Scieszinski's concerns and added that in his opinion the Legislature has failed to act on the 2002 Supreme Court Advisory Committee's recommendations. Ms. Faircloth, a juvenile court officer representing the Juvenile Court Officers Association, stated that if any redistricting were to take place, it should take into account the fiscal impact on other state agencies, such as the Department of Corrections.

Mr. Campbell, District Director of the Eighth Judicial District and representing the Judicial District Department of Correctional Services, commented that the Committee should keep an open mind and take a fresh look at the allocation of judicial resources throughout the state. Ms. Antenucci, an attorney representing the Iowa Defense Counsel Association, noted that her participation brings a trial lawyer's perspective to the Committee and that any final action the Committee takes will affect not only the present time, but the future.

Justice Ternus, representing the Iowa Supreme Court, stated her desire to address the inequitable apportionment of court services across the judicial districts. Ms. Loveland, representing the Iowa Court Reporters' Association, emphasized the importance of keeping an open mind. Ms. Edmondson, Washington County Attorney representing the Iowa County Attorneys' Association, commented that she is interested in the fair delivery of judicial services and emphasized the need to look toward the future in crafting any long-term solution. Mr. Ryan, representing the Iowa Civil Liberties Union, commented that he hopes to be able to offer a balance of ideas for the Committee.



Ms. Johnson, representing the Iowa Clerks of Court Association, stated her interest in examining the effects of any action by the Committee on the clerks of court. Representative Swaim, an attorney and member of the Iowa Legislature, stated that the Committee should keep in mind that Iowa has a strong tradition of taking justice directly to the people.

Mr. Drew, representing the Iowa Trial Lawyers Association, emphasized the need to consider equal access to the court system for all Iowans. Mr. Bollard, representing the Iowa County Records' Association, noted that he is looking forward to serving on the Committee. Judge Nahra, representing the Iowa Judges Association, commented he is anxious to begin the dialogue about the allocation of judicial resources. Judge Clarke, a district court judge representing the Iowa Judges Association, emphasized the need for the efficient and compassionate delivery of judicial court services. Ms. Cobb, representing the Iowa Association of Magistrate Judges, noted the need to balance the delivery of judicial resources with the need to balance the efficiency of such resources. Ms. Millhollin, representing the Iowa County Supervisors Association, commented on the need to take into account court system fees. Mr. Eaton, past president of the Iowa State Bar Association and representing the Iowa State Bar Association, commented about the need to examine the idea of judicial redistricting, but noted that he is flexible and not locked into the idea.

Judge Remley, Chief Judge of the Sixth Judicial District and cochair of the 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting, commented that he believes that the goal of the Committee is to achieve fairness and equal access to judicial resources for all Iowans, and to equalize judicial workloads between judicial districts. Mr. McClintock, representing the Iowa Academy of Trial Lawyers, commented that the Committee should take into account both rural and urban factors. Ms. Philpott, representing AFSCME, commented that it is important to provide fair and equal access to the judicial system for all Iowans, particularly elderly Iowans. She also commented that the Committee should consider the impact of any recommendations on the clerks of court and their employees. Ms. Armstrong, an attorney representing the Iowa Trial Lawyers Association, noted that she has lived in many states and Iowa has a lot to be proud of and that she is looking forward to serving on the Committee.

Senator Kreiman, an attorney and member of the Iowa Legislature, emphasized the importance of keeping an open mind. Mr. Anderson, Polk County Sheriff, representing the Iowa Sheriffs and Deputies Association, commented that members of the law enforcement community have a vested interest in the work of this Committee, with the ultimate goal of protecting our courthouses. Cochairperson Redfern, an attorney and member of the Iowa Legislature, emphasized the importance of considering the economic realities involved in the delivery and allocation of judicial resources. He suggested the Committee identify any problem, quantify the magnitude, and consider options. Cochairperson Maddox, an attorney and member of the Iowa Legislature, commented on the need to look at the interplay of the entire governmental structure, including the allocation of judicial branch resources in each of the 99 counties.

III. Overview of Charge and Review of Enabling Legislation.

Mr. Joe McEniry, Legislative Services Agency, Legal Services Division, presented the charge of the Committee and discussed highlights of the enabling legislation, H.F. 694, enacted in the 2003



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Legislative Session. Mr. McEniry stated that the charge of the Committee is to review issues relating to judicial district and judicial district redistricting and the allocation of judicial branch resources and other related items. Mr. McEniry emphasized that the enabling language is broadly written, and that the charge does not mandate that the Committee submit a redistricting plan to the General Assembly unless warranted. If, after reviewing all relevant factors, the Committee determines that redistricting should occur, the Committee shall adopt a redistricting plan and submit the plan by December 15, 2003, for consideration by the General Assembly. Under this redistricting process, no amendments may be taken by the General Assembly. In addition, Mr. McEniry emphasized H.F. 694 does the following:

- Authorizes the Chief Justice of the Supreme Court to delay for up to 180 days notification of any vacancy that occurs in any judgeship, including the Supreme Court, for budgetary reasons.
- Authorizes the Chief Justice to transfer a vacant district court judgeship from one judicial election district to another judicial election district upon a finding that a substantial disparity exists between the allocation of judgeships and the judicial workload between judicial election districts. Such a transfer must be approved by a majority vote of the Judicial Council (transfer of judgeships by attrition).
- Allows the Chief Justice to authorize the voluntary permanent transfer of a district court judge from one judicial election district to another judicial election district upon finding that a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts. A voluntary transfer of a district court judge must be approved by a majority vote of the Judicial Council.
- Specifies that the judicial nominating commissioners shall not be able to vote for the nomination to the commission of a family member, current law partner, or current business partner.
- Specifies clerk of court is no longer responsible for indigent medical claims.
- Allows a clerk of a district court to serve as the clerk of the district court for more than one but not more than four contiguous counties within the same judicial district.
- Specifies the reinstatement of satellite magistrate offices in a city other than the county seat under the following circumstances:
 1. The magistrate court was regularly scheduled in the city other than the county seat on or after July 1.
 2. The population of the city is at least two times greater than the population of the county seat or the population of the city is at least 30,000.
 3. The city requests the chief judge to schedule magistrate court.
 4. The city requesting the magistrate court shall pay any extra costs for holding magistrate court in the city which would not otherwise have been incurred by the judicial branch.



IV. Fiscal Considerations.

Ms. Jennifer Acton, Legislative Services Agency, Fiscal Services Division, reported on Iowa Supreme Court expenditures for the past 10 fiscal years. She reported that the judicial branch budget was \$116,623,446 in FY 2000-2001, and is estimated at \$119,877,526 for FY 2003-2004. Ms. Acton also spoke about the fiscal impact of the 180-day delay in certifying nominees to fill judicial vacancies and filing fee and postage changes.

V. Judicial Branch.

History — Recent Study. Mr. Boyd, State Court Administrator, presented a brief history of the judicial branch's review of the allocation of judicial branch resources districtwide since the mid-1990s, in which assessments of population trends and quantity and quality of judicial caseloads were considered. Mr. Boyd also referred to a recent study conducted by the National Center for State Courts (NCSC) issued in June of 2002 at the request of the Iowa State Court Administrator's Office. The purpose of this study was to conduct a judicial workload assessment utilizing a weighted caseload formula for measuring the workload of the Iowa state court system, including the work of district judges, district associate judges, and magistrates in all 99 counties. Mr. Boyd stated the report found significant disparities between the supply of full-time equivalent (FTE) judicial officers from one judicial district to another. The difference ranged from an excess of 32 percent in one judicial district to a shortage of 19 percent in another judicial district, for a range of approximately 51 percentage points.

2003 Reform Legislation. Mr. Boyd provided additional comments on the history and development of H.F. 694 and stated that the Supreme Court appointed a 25-member Supreme Court Advisory Committee on Judicial Branch Redistricting on August 27, 2002. He also noted the dramatic population shifts that have occurred in Iowa in the past 30 years as an impetus for the redistricting study. He noted that while the advisory committee overall did not support redistricting, the committee did formulate the following two objectives to be utilized in any redistricting plan: equalizing judicial workloads and downsizing or streamlining the overall judicial structure to achieve both administrative and monetary savings. The advisory committee was directed to examine a range of factors and to formulate a redistricting plan that reduced the number of judicial districts to six or less and to realign the judicial election districts.

Mr. Boyd stated that the advisory committee submitted three different plans for redistricting to the Supreme Court, which included three-district, four-district, and five-district redistricting options. He noted the Supreme Court agreed to delay submission of these plans to the Legislature to allow this legislative interim study committee to meet.

Redistricting Alternatives. Mr. Boyd further discussed additional matters as alternatives to redistricting, including the reallocation of vacant judgeships and the voluntary transfer of judges. He opined that a voluntary transfer is not necessarily a good solution because it involves removing a judge from their home district and it is unfair to the citizens of the home district who nominated and elected to retain the judge and it is also unfair to the citizens of the judge's reassigned district because they did not nominate or retain the reassigned judge. He opined that reallocation of a judgeship vacancy that occurs through attrition upon the retirement, resignation, or death of a district judge is a more practical option. He stated that the Judicial Council must approve, by



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majority vote, any such reallocation under an equitable allocation formula adopted by the Judicial Council. Mr. Boyd noted that the reallocation of vacant judgeships through attrition will provide some long-term relief but will not provide short-term or immediate changes, since such a reallocation may take up to five years or more. He further stated that the voluntary transfer of current sitting judges from one judicial district to another is not a serious option for the Supreme Court at this time because of certain constitutional concerns.

Regarding a question from Senator Kreiman, Mr. Boyd commented that it was not the Supreme Court's intention to provide a specific plan for redistricting for legislative approval. He stated the Court does support the concept of redistricting. He further commented that whether redistricting occurs or not, the Court will continue to work with the legislative branch to ensure access to the court system for all citizens of Iowa.

Committee Discussion. Committee discussion centered on the current statutory formulas for the allocation of judgeships in each judicial district. In response to Representative Swaim's question as to whether the current statutory judgeship formulas are outdated, Mr. Boyd responded that ultimately, all judgeship formulas need to be revisited, and that the judicial workload issue should be the focus rather than the population and number of case filings. He emphasized the point that the current statutory formula is not an invalid formula, but a formula that can be improved upon. He further noted that the purpose of the proposed equitable allocation formula is to suggest a threshold means of determining an equitable allocation of district judgeships when there is a shortage of district judgeships according to the current statutory formula. In response to a question by Judge Remley, Mr. Boyd responded that under the new law, the Supreme Court has no authority to transfer vacant district associate judgeships.

Judge Scieszinski inquired about the Court's vision for future judicial districts. Mr. Boyd responded that the financing and accounting systems might be consolidated in an effort to provide a more centrally funded system, but that it would depend on the needs of the individual district. He noted most administration would continue in the future districts.

Cochairperson Redfern commented many people question the methodologies used in addressing the disparity of judicial workloads, and commented that there was some concern that the NCSC study failed to take into account certain relevant factors.

In response to Mr. Drew's question as to whether the Iowa Judges Association had a position on the value of the NCSC study, Judge Clarke responded that the association had no position on the value of the study but did question the methodology and the accuracy of the data utilized. He further stated that the association did not support redistricting, but supported the reallocation of judicial officer resources.

Judge Nahra commented that the juvenile court workload has increased dramatically over approximately the last 13 years and it is often difficult to assess juvenile workloads among judicial districts, as many different judicial officers may be involved in one case. Justice Ternus commented that a perfect formula for assessing judicial workloads does not exist, as it is an imperfect science. She also questioned whether the judges on the Committee perceived there to be a judicial workload disparity. Judge Scieszinski responded she thinks there is a disparity, but more discussion is needed about the identification and implementation of best practices among



judges. Justice Ternus commented that she hoped that any discussion of best practices in the profession is ongoing, regardless of the redistricting issue. She further commented that much of the efficiency problem is anecdotal and that the best resources the Committee has to measure the disparity problem are statistical formulas, such as the NCSC workload formula. Judge Nahra commented that no one formula will provide the answer, and that there may be a misallocation of resources between the district court judges, district associate judges, and magistrates.

VI. 2002 Iowa Supreme Court Advisory Committee on Judicial Branch Redistricting.

Judge David Remley, Cochair of the Supreme Court Advisory Committee on Judicial Branch Redistricting, reviewed in more detail the advisory committee's December 13, 2003, report submitted to the Supreme Court. He stated that the committee was mandated with formulating a redistricting plan for six or fewer judicial districts and also charged with realigning the judicial election districts. He reiterated Mr. Boyd's comment that many members of the advisory committee did not support redistricting, and that some members felt constrained by the specific charge of the advisory committee. He also noted that the advisory committee engaged in extensive public outreach.

Judge Remley stated that the advisory committee utilized a ground up approach and considered the natural alliances between cities and counties, and other relevant areas, commuting patterns, population and judicial workload trends, and the selection of judges from across the state. He also said that judicial election districts should be determined first and then combined into judicial districts, with a goal that each judicial district has a sufficient number of FTE judicial officers to meet projected workload demand. He reported that the advisory committee recommended increasing the number of judicial election districts to 16 "travel-friendly" districts, an increase from the present number of 14. He noted that Polk County must remain a separate judicial election district.

He further reported the advisory committee submitted separate recommendations for consideration as alternatives to redistricting, including the reassignment of senior judges from one district to another and the transfer of district judge or district associate judge vacancies by attrition upon the retirement, resignation, or death of a district judge or district associate judge who resides in a judicial election district which has an excess of judicial officers. He stated that a determination of the fiscal impact of redistricting would be difficult. cochairperson Redfern commended the work of the advisory committee and stated that it will be a valuable resource to this committee.

Committee discussion focused on whether the disparity in judicial resources could be adequately addressed without the need to redistrict. Mr. Smith questioned how redistricting would negatively impact the delivery of services within the current system. Judge Clarke commented that changing the judicial districts affects the delivery of certain services, such as the delivery of services in juvenile court and with the judicial district department correctional services. He stated that the larger the districts get, the more difficult it becomes to deliver services effectively. Ms. Dice commented that from a case management perspective, it is more difficult to coordinate services both within and outside the current structure the bigger the districts become. Ms. Armstrong



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commented on her concerns about the accuracy of the NCSC study formula, because less than half of the judges responded to the survey.

VII. Additional Information.

Committee members discussed and concluded the following additional information should be considered as the Committee proceeds in further discussions:

- A list of tools or resources to help the Legislature address the judicial workload disparity.
- The use and availability of technology to improve communication efforts and its effect on the allocation of judicial branch resources.
- A review of information about voluntary transfers of judicial officers from one judicial district to another, including an anonymous survey of judicial officers to determine the percentage of judicial officers who might be willing to participate in such transfers.
- A review of the different types of methodologies that can be utilized to measure and compare judicial workloads among judicial districts.

VIII. Next Meeting.

The second meeting of the Study Committee is scheduled for Wednesday, November 12, 2003, at 10 a.m. in Room 116 of the State Capitol.

IX. Written Materials on File With the Legislative Services Agency, Legal Services Division.

- a. Background statement and attachments A-G from Joe McEniry, Legislative Services Agency, Legal Services Division.
- b. Justice System General Fund memorandum, from Jennifer Acton, Legislative Services Agency, Fiscal Services Division.
- c. Iowa Court System Memorandum from Jennifer Acton, Legislative Services Agency, Fiscal Services Division.
- d. Proposal from the judicial branch regarding determination of disparity in the allocation of district judgeships.

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